

December 7, 2004

The Walton County Board of Commissioners held its regular monthly meeting on Tuesday, December 7, 2004 at 6:00 p.m. in the Courthouse Annex VI Superior Courtroom, 116 South Broad Street, Monroe, Ga. Those present included Chairman Kevin Little, Commissioners Clinton Ayers, Michael Turner, Phil Green, Lamar Palmer, Gerald Atha and John Robinson, County Clerk Leta Talbird, County Attorney Ken Lander and Planning Director Mike Martin. A list of citizens and other employees in attendance at this meeting is on file in the auxiliary file under this meeting date.

Chairman Little called the meeting to order at 6:00 p.m. and led those present in the Pledge of Allegiance. Commissioner Ayers opened the meeting in prayer.

Commissioner Robinson made a motion to adopt the agenda as presented, moving executive session to the beginning of the meeting. Commissioner Ayers seconded the motion. All voted in favor.

At 6:05 p.m., Commissioner Ayers made a motion, seconded by Commissioner Green, to enter into executive session to discuss litigation. Commissioners Ayers, Turner, Green, Palmer, Atha & Robinson voted in favor.

At 6:15 p.m., Commissioner Atha made a motion, seconded by Commissioner Turner, to return to regular session. Commissioners Ayers, Turner, Green, Palmer, Atha & Robinson voted in favor. No votes were taken while in executive session.

At 6:17 p.m., Chairman Little exited the meeting and Vice Chairman Robinson presided.

The Board considered the abandonment of the portion of Sandy Creek Road that lies within Sandy Creek Cove Subdivision. Commissioner Turner made a motion to abandon the aforementioned portion of Sandy Creek Road. Commissioner Ayers seconded the motion; voted and carried unanimously.

Commissioner Ayers made a motion to approve withdrawal of a Land Use Designation change from Office/Professional to High Density Residential and a rezone request from A-1 to R-1 w/ Open Space Conservation Overlay on 27.88 acres for Key Builders, Inc. – Hwy. 81. Commissioner Turner seconded the motion. All voted in favor.

Commissioner Ayers made a motion to approve withdrawal of a rezone

request from A-1 to R-1 with Open Space Conservation Overlay on 33+- acres for Harrington Homes – Grady Smith Road. Commissioner Turner seconded the motion; voted and carried unanimously.

The Board considered a Planning Commission recommendation to approve a rezone request from A-1 to R-1 w/ 2400 Overlay for Regency Land Corporation. The effected property, owned by Griffin Brooks, is located on June Ivey Road and is further identified on WC Tax Map C 70, Parcel 1. The purpose of the request is to rezone 23.4 acres to R-1 with 2400 Overlay for a single-family subdivision. Chairman Little opened the public hearing on the matter. Don Stovall, representing the applicant, came before the Board in support of the rezone. Greg Brooks spoke in opposition to the rezone on behalf of Harriett Brooks. Mr. Brooks expressed concerns regarding the liability Ms. Brooks could incur due to the lake that backs up to the common area of the proposed development. Mr. Stovall, in rebuttal, stated that he had spoken with Ms. Brooks and has agreed to put up a fence at the property to prevent trespassing, agreed to put up no trespassing signs and had agreed to clean up around the lake. He stated that he had offered to buy a 50 ft. easement around the lake from Ms. Brooks. After further discussion, Vice Chairman Robinson closed the public hearing on the matter. Commissioner Atha made a motion to approve the rezone with the condition that the homeowners would be responsible for the maintenance, upkeep and safety of the lake and dam on their side. Commissioner Turner seconded the motion; voted and carried unanimously.

The Board considered a Planning Commission recommendation to approve a rezone request from A-1 to R-1 with Open Space Conservation Overlay for Heartlands Premier Land Development, Inc. The effected property, owned by Newton Timber Company, LTD, is located on S. Sharon Church Road and is further identified on WC Tax Map C 12, Parcel 60. The purpose of the request is to rezone 208.86 acres to R-1 with OSC Overlay for a single-family subdivision. Vice Chairman Robinson opened the public hearing on the matter. Attorney Mike Malcom, representing the applicant, came before the Board in support of the rezone. Mr. Malcom stated that the applicant has reduced the acreage requested for rezone from 208.86 to 176. Anthony Fortner also spoke in support of the rezone. Carl Kelly, representing the Cedar Lakes Homeowners' Association, read a letter into the record regarding conditions the Association would like placed on the rezone. Jennifer Truitt and Todd Browning expressed concerns regarding proposed lot sizes in the development. Mike Malcom, in rebuttal, reviewed a revised drawing of the proposed development with the Board. After further discussion, Vice Chairman Robinson closed the public hearing on the matter. Commissioner Turner made a motion to approve the rezone with the following conditions: 2,200 sq. ft. minimum homes in the phase adjacent to Cedar Lake Estates with 74 lots, no clear cutting of trees/timber during the

development phase, no more than 80 homes with lots sold to a maximum of 2 builders, Mr. Fortner to bond the existing Cedar Lake Drive from Sharon Church Road to the entrance to his subdivision for a period of two years for damages from construction traffic, receipt of legal authority to cut the bank down in the dangerous intersection and if not granted, limited to 1 entrance off of Sharon Church Road. Commissioner Atha seconded the motion. All voted in favor.

The Board considered a Planning Commission recommendation to approve a rezone request from A-1 to A-2 with greenspace conservation overlay for N. Anderson Malcom. The effected property, owned by Sally Dahmes – WASCO, is located on Monroe Jersey Road and is further identified on WC Tax Map C 103, parcels 41 Split & 43. The purpose of the request is to rezone 102.74 acres to A-1 GS Overlay for a single-family subdivision. Vice Chairman Robinson opened the public hearing on the matter. Attorney Andrea Jones of Dillard & Galloway came before the Board in support of the request on behalf of the applicant. Charles Sanders, representing property owners in the area, spoke in opposition. He asked those present in opposition to stand. William Chapman gave a power point presentation concerning the proposed density of the development. After rebuttal by Ms. Jones, Vice Chairman Robinson closed the public hearing on the matter. Commissioner Palmer made a motion to approve the rezone with the condition that the only way the property can be developed is that sewer will be ran to it and that all conditions agreed on between the land owners, the neighbors and the developer be met and given to the Clerk to be added to the record. Commissioner Turner seconded the motion. County Attorney Ken Lander stated that the Board needs a set of conditions to vote on. After further discussion, Ms. Jones read a list of conditions into the record as follows: Eliminate lot #1 as shown on the site plan. The greenspace on Alcovy River is not for vehicle access and the developer does not anticipate putting a parking lot back there. The developer will install the sewage line at the entrance of the subdivision. The developer will put a fence along the property line adjoining the Sanders property. The Jones property will be buffered by a 50 ft. natural undisturbed buffer and evergreen trees will be planted on the mountain vista side of that natural buffer. Low intensity subdivision lighting will be used and the lighting will be according to whatever Georgia Power Company does since they are the providers of the lighting and they make the rules about when the lights come on and go off. There shall be an acceleration and deceleration lane installed at the entrance of the subdivision. Commissioner Atha asked to hear Mr. Chapman's comments about the proposed conditions. Mr. Chapman reiterated his concerns, stating the County has changed the Land Development Ordinance and that it does not reflect the Comprehensive Land Use Plan. Mr. Lander stated that there is no discrepancy between the Land Use Plan and the Land Development Ordinance. He stated that the Ordinance merely fleshes out

what happens in the areas that are designated low and medium density in the Land Use Plan. After further comment, Commissioner Palmer restated his motion to approve the rezone conditioned that this only happens if sewerage is ran to the development and also that the agreements read into the record by Attorney Andrea Jones are added as a condition of the rezone. Commissioner Turner seconded the motion; voted and carried unanimously.

At 7:35 p.m., Chairman Little re-entered the meeting.

At 7:40 p.m., Commissioner Turner made a motion, seconded by Commissioner Ayers, to take a 5-minute break. All voted in favor.

At 7:45 p.m., Commissioner Turner made a motion, seconded by Commissioner Ayers, to resume the meeting. All voted in favor. Chairman Little called the meeting back to order.

The Board considered a Planning Commission recommendation to approve a rezone request from A-1 to R-1 with Open Space Conservation Overlay for Ho Hum Hollow, LLC. The effected property is located on Ho Hum Hollow Road and is further identified on WC Tax Map C 62, Parcel 12. The purpose of the request is to rezone 65.31 acres to R-1 with OSC Overlay for a single-family subdivision. Chairman Little opened the public hearing on the matter. Attorney Gene Benton, representing the applicant, came before the Board in support of the rezone. Mr. Benton reserved the applicant's Constitutional rights for the record. Susan Cartwright spoke in opposition, citing the condition of Ho Hum Hollow Road, potential increase in traffic, overcrowding of schools and proposed lot and house sizes as reasons for her opposition. Luke Garrett spoke in opposition expressing his concerns regarding the impact the development would have on his farming business. In rebuttal, Mr. Benton stated that the applicant would be willing to put a disclaimer notation on the plat stating that there is a working farm next door to the property. After further discussion, Chairman Little closed the public hearing on the matter. Commissioner Ayers made a motion to approve the rezone conditioned upon no more than 38 lots, single story houses a minimum of 1,800 sq. ft. and two-story houses a minimum of 2,200 sq. ft. and that a notation will be put in the deeds that there is a working farm next door. Commissioner Turner seconded the motion. Commissioners Ayers, Turner, Palmer, Atha and Robinson voted in favor. Commissioner Green opposed the motion. The motion carried 5-1.

The Board considered a Planning Commission recommendation to approve a rezone request from A-1 to A for James P. Baskin. The effected property, owned by Ernest W. Schuenaman, is located at 2315 N. Hwy. 11 and is further identified on WC Tax Map C 86, Parcel 30. The purpose of the request is to rezone 48 +/- acres to Agriculture for a wholesale nursery

growing operation. Chairman Little opened the public hearing on the matter. Jimmy Baskin came before the Board in support of the rezone. There was no one present in opposition. Chairman Little closed the public hearing on the matter. Commissioner Atha made a motion to approve the rezone. Commissioner Robinson seconded the motion; voted and carried unanimously.

The Board considered a Planning Commission recommendation to approve a rezone request from A-1/R-1 to R-1 with Open Space Conservation Overlay for Central Georgia Development. The effected property, owned by Larce Carter III, Gerald Carter & Carolyn Glenn, is located on Etchison Road & Etchison Spur and further identified on WC Tax Map C 60, Parcels 24, 28, 29 & 73. The purpose of the request is to rezone 116 +- acres to R-1 with OSC Overlay for a single-family subdivision. Chairman Little opened the public hearing on the matter. David Willett came before the Board in support of the rezone. There was no one present in opposition. Chairman Little closed the public hearing on the matter. Commissioner Ayers made a motion to approve the rezone conditioned on the development having a commercial quality playground, if the development has an entrance off Etchison Spur that it come out of the second cul-de-sac and brick or rock accents on the houses. Commissioner Turner seconded the motion; voted and carried unanimously.

The Board considered a Planning Commission recommendation to deny a rezone request from A-1 to R-1 for Overstreet Development, LLC. The effected property is located on Chandler Road and is further identified on WC Tax Map C 194, Parcels 18G, 18H & 18J. The purpose of the request is to rezone 15 acres to R-1 for a single-family subdivision. Chairman Little opened the public hearing on the matter. Attorney Paul Rosenthal, representing the applicant, came before the Board in support of the rezone. Mr. Rosenthal preserved the applicant's Constitutional rights for the record. There was no one present in opposition to the rezone. Chairman Little closed the public hearing on the matter. Commissioner Palmer made a motion to approve the rezone with the condition that there will be a provision on the deeds that there is a family farming operation in the area. Commissioner Robinson seconded the motion. Commissioners Ayers, Turner, Green, Palmer and Robinson voted in favor. Commissioner Atha opposed the motion. The motion carried 5-1.

The Board considered a land use designation change from Low Density Residential to Commercial and rezone from A-1 to B-2 for Clack Development, Inc. The effected property is located on Ga. Hwy. 138 and is further identified on WC Tax Map C 65, Parcel 2. The purpose of the request is to rezone 13.66 acres to B-2 for office retail. Chairman Little opened the public hearing on the matter. Attorney Mike Malcom, representing the applicant, came before the Board in support of the request. Mr. Malcom

presented a letter preserving the applicant's Constitutional rights for the record. Joseph Jovenneta, who owns property on the western boundary of the property, spoke in opposition to the rezone, stating that he thinks this would be spot zoning. He expressed his concern regarding springs on the property that run onto his property and on into Cornish Creek Reservoir. Mr. Jovenneta presented photographs for the Board's review. Peggy Hawley also spoke in opposition to the rezone. After rebuttal by Mr. Malcom, Chairman Little closed the public hearing on the matter. Commissioner Green made a motion to deny the land use designation change based on the applicant having not had an environmental impact study done on the property. The motion failed due to lack of a second. Commissioner Robinson made a motion to deny the land use designation change. Commissioner Green seconded the motion. Commissioners Ayers, Green, Palmer, Atha & Robinson voted in favor of the motion. Commissioner Turner opposed the motion. The motion carried 5-1. Due to denial of the land use designation change, there was no vote on the rezone request.

The Board considered a Planning Commission recommendation to deny a Conditional Use request for a telecommunications tower for Nextel Communications. The effected property, owned by Lance & John Marlowe, is located on Carl Davis Road and is further identified on WC Tax Map C 84, Parcel 16. Chairman Little opened the public hearing on the matter. Chris Kinchen of Craig & Associates, representing the applicant, requested the Board table a decision on the matter in order for the applicant to work with Walton EMC to determine if the EMC tower is structurally sound enough to co-locate on it. Ms. Kinchen stated that if the Board would not consider tabling the matter, the applicant would request approval of a 190 ft. unlit monopole tower designed to accommodate 4 carriers. Attorney Paul Rosenthal, speaking on behalf of the opposition, submitted a letter preserving his client's Constitutional rights for the record. Mr. Rosenthal present a petition signed by opponents of the Conditional Use. He stated that the area is an emerging residential corridor and that the Land Use map calls for high-density residential use. Ms. Kinchen, in rebuttal, stated that the proposed site is zoned agricultural, not residential and reiterated that the applicant is asking that the request be tabled until a meeting can be scheduled with Walton EMC regarding co-location on their tower. Patrick Shores and Mike Wither also spoke in opposition to the request. Chairman Little closed the public hearing on the matter. Commissioner Atha made a motion to deny the Conditional Use, stating that the Code requirements state that co-location should have been addressed in the application, cell towers are not allowed in residential areas and there are several better locations along the Hwy. 11 corridor if a cell tower is needed in that area. Commissioner Ayers seconded the motion; voted and carried unanimously.

The Board considered a request to withdraw a request for a land use

designation change from High Density Residential/Commercial to Commercial and a rezone request from A-2/B-1 to B-3 for a medical campus for Larry Alexander. There was no one present to represent the request and no one present in opposition. Commissioner Ayers made a motion to approve withdrawal of the request. Commissioner Turner seconded the motion. All voted in favor.

Commissioner Ayers made a motion to remove from the agenda a Planning Commission recommendation to remove the RND Overlay from the Land Development Ordinance in order for the Board to discuss the matter at a work session. Commissioner Turner seconded the motion; voted and carried unanimously.

Doug Ross of Ross & Associates discussed with the Board proposed amendments to the Land Development Ordinance regarding Impact Fees. Mr. Ross will put together a draft policy for the Board's review.

Commissioner Turner made a motion to accept the resignation of Mark Banks from the Walton County Board of Tax Assessors and to appoint Mark Peevy. Commissioner Atha seconded the motion. All voted in favor.

Jimmy Payne, Keista Davis, Douglas Firth and Carlos Thompson spoke during the public comment segment of the meeting.

At 10:00 p.m., Commissioner Ayers made a motion to briefly recess the meeting. Commissioner Palmer seconded the motion; voted and carried unanimously.

At 10:05 p.m., Chairman Little called the meeting back to order.

County Attorney Ken Lander updated the Board on the proposed resolution regarding restructuring of the Walton County Water & Sewerage Authority. Water Authority Attorney Tommy Craig also spoke to the Board. After further discussion, the Board called a meeting on Monday, December 20, 2004 to consider the resolution. The Board instructed Mr. Lander to work with Mr. Craig and others to address various issues of concern and to bring the matter back before the Board on December 20, 2004.

Chairman Little presented a plaque to Commissioner Green and thanked him for his service to the citizens of Walton County.

At 10:40 p.m., Commissioner Atha made a motion, seconded by Commissioner Palmer, to adjourn the meeting. All voted in favor.

All documents of record for this meeting are on file in either the addendum

book or auxiliary file under this meeting date.

<u>KEVIN W. LITTLE, CHAIRMAN</u>	<u>LETA P. TALBIRD, CLERK</u>
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<u>CLINTON AYERS, DISTRICT 1</u>	<u>MICHAEL TURNER, DISTRICT 2</u>
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<u>HARRY P. GREEN, DISTRICT 3</u>	<u>LAMAR PALMER, DISTRICT 4</u>
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<u>GERALD ATHA, DISTRICT 5</u>	<u>JOHN ROBINSON, DISTRICT 6</u>
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